

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

IN RE:

Case No. 14-31482-DOF
Chapter 13
Hon. DANIEL S. OPPERMAN

WAYNE PATRICK FERRIS

Debtor.

TAMARA A. WHITE (P57276)

Attorney for Creditor
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Southfield, MI 48034
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ERWIN F. MEIERS III

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MOTION TO TERMINATE AUTOMATIC STAY
AND WAIVE THE PROVISIONS OF FRBP 4001

NOW COMES RENT-A-CENTER, INC , by and through its attorneys, HOLZMAN
CORKERY, PLLC, and for its Motion To Terminate Automatic Stay, says as follows:

1. That on or about May 19, 2013, the Debtors filed a Voluntary Petition for Relief pursuant to 11 U.S.C. Chapter 7.
2. At the time of said filing, the Debtor was indebted to RENT-A-CENTER in connection with six (6) rental agreements, for certain computers/tablets, gaming systems and television set(s)

Specifically enumerated as follows (copies of the agreements are attached hereto):

- A. **Video Product/Video Game System**, Item No. 0168207723, Dated September 14, 2013;
- B. **Computer equipment**, Item No. 0165207803, Dated September 21, 2013;
- C. **Computer equipment**, Item No. 0030009339, Dated September 27, 2013;
- D. **Computer equipment**, Item No. 0387706934, Dated November 29, 2013;
- E. **Television/LED TV**, Item No. 0387706942, Dated November 29, 2013;

F. **Computer equipment/MACBOOK**, Item No. 0004722195, Dated December 7, 2013.

G. **Computer Tablet/APPLE**, CCP 18184, Dated December 24, 2013.

3. Pursuant to the underlying lease agreements, the Debtor was to remit regular installment payments to Rent-A-Center.
4. The Debtor has failed to remit the required payments with this obligation and each agreement is in default.
5. According to the proposed Ch. 13 Plan, the Debtor classified the aforementioned obligations as unsecured claims.
6. Rental Purchase Agreements are controlled by the Michigan Rental-Purchase Agreement Act, M.C.L. 445.951 and per Michigan Law, they are deemed executory contracts. In re Mahoney, 153 B.R. 174.
5. That Debtor has defaulted on the aforementioned lease agreements and pursuant to 11 U.S.C. 365 of the US Bankruptcy Code, the executory contracts must be assumed or rejected.
6. To properly assume the aforementioned contracts, the Debtor must cure or provide adequate assurance that all defaults will be promptly cured as set forth in 11 U.S.C. 365(b). The past due rents are as follows:

A. **Video Product/Video Game System**, Item No. 0168207723
Arrearage of \$383.63; remaining rent due \$585.66

B. **Computer equipment**, Item No. 0165207803
Arrearage of \$588.12; remaining rent due \$807.69

C. **Computer equipment**, Item No. 0030009339
Arrearage of \$638.82; remaining rent due \$999.03

D. **Computer equipment**, Item No. 0387706934

Arrearage of \$510.38; remaining rent due \$1,498.40

E. **Television/LED TV**, Item No. 0387706942,
Arrearage of \$638.82; remaining rent due \$2,932.80

F. **Computer equipment/MACBOOK**, Item No. 0004722195
Arrearage of \$894.01; remaining rent due \$2,850.58

G. **Computer Tablet/APPLE**, CCP 18184, Dated December 24, 2013.
Arrearage of \$638.82; remaining rent due \$1,876.98

7. That Debtor's proposed Chapter 13 Plan fails to properly classify the Rental-Purchase Agreements and instead proposes improper treatment as unsecured debt.
8. Other than the Debtor and this Creditor, no other party claims an interest in the secured property.
9. The Debtor has no equity in the subject property as same are subject to a true lease.
10. That since Creditor is not adequately protected, just cause exists to terminate the automatic stay and further waive the provisions of FRBP 4001.
11. A copy of the proposed Order is attached hereto as Exhibit A.
12. Creditor was unable to obtain concurrence for its prayer for relief prior to the filing of this motion.

WHEREFORE, RENT-A-CENTER requests this Court to enter an order terminating the automatic stay for the purpose of allowing the secured creditor to take possession of and to foreclose its interest in certain computers/tablets, gaming systems and television set(s) Specifically enumerated as follows:

- A. **Video Product/Video Game System**, Item No. 0168207723, Dated September 14, 2013;
- B. **Computer equipment**, Item No. 0165207803, Dated September 21, 2013;
- C. **Computer equipment**, Item No. 0030009339, Dated September 27, 2013;
- D. **Computer equipment**, Item No. 0387706934, Dated November 29, 2013;
- E. **Television/LED TV**, Item No. 0387706942, Dated November 29, 2013;

F. Computer equipment/MACBOOK, Item No. 0004722195, Dated December 7, 2013.

G. Computer Tablet/APPLE, CCP 18184, Dated December 24, 2013.

And to further waive the provisions of FRBP 4001.

Dated: July 15, 2013

HOLZMAN CORKERY, PLLC

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ORDER TERMINATING AUTOMATIC STAY

RENT-A-CENTER, INC filed and served a Motion For Relief From Automatic Stay upon the Trustee and the Debtor and Debtor's attorney pursuant to LBR 9014-1 (EDM). A hearing having been held or no objections to the motion were timely filed and served and a Certificate of No Response has been submitted. It appears to this Court that Debtor has defaulted with the underlying lease agreements with RENT-A-CENTER, INC in connection with certain computer, electronic and television equipment and Debtor has further failed to properly assume or reject the related installment lease agreements as required under 11 USC 365. The Court has reviewed the motion finding good cause to grant the relief requested and enters this Order.

IT IS HEREBY ORDERED:

1. Creditor's motion is granted.

2. The Automatic Stay is terminated for the purpose of permitting RENT-A-CENTER, INC to take possession of and foreclose its security interest in:
 - A. **Video Product/Video Game System**, Item No. 0168207723, Dated September 14, 2013;
 - B. **Computer equipment**, Item No. 0165207803, Dated September 21, 2013;
 - C. **Computer equipment**, Item No. 0030009339, Dated September 27, 2013;
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 - G. **Computer Tablet/APPLE**, CCP 18184, Dated December 24, 2013.
3. This Court shall retain jurisdiction over all matters relating to the enforcement of this Order.
4. This Order shall be effective immediately notwithstanding the provisions of FRBP 4001.

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**NOTICE OF MOTION TO TERMINATE AUTOMATIC STAY
AND WAIVE PROVISIONS THE FRBP 4001**

RENT-A-CENTER, INC has filed papers with the court to terminate the automatic stay and to further waive the provisions of FRBP 4001.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to terminate the automatic stay, or if you want the court to consider your views on the motion, within 14 days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

United States Bankruptcy Court
226 West Second Street
Flint, MI 48502

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

TAMARA A. WHITE
HOLZMAN CORKERY, PLLC
bankruptcy@holzmanlaw.com
28366 Franklin Road

Southfield, MI 48034
248-352-4340

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Dated: July 15, 2013

HOLZMAN CORKERY, PLLC

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PROOF OF SERVICE

DIANE WEAVER, hereby certifies that on 07/15/14 she served a copy of the following documents:

- **Motion to Terminate Automatic Stay**
- **Proposed Order**
- **Notice of Motion**
- **Proof of Service**

Via ECF Filing:

Office of the Chapter 13 Standing Trustee, CARL BEKOFESKE; ERWIN F. MEIERS, III, Esquire

Via US First Class Mail:

WAYNE PATRICK FERRIS, 14042 Torrey Road, Fenton, MI 48430

Dated: 07/15/14

/S/ DIANE WEAVER for
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